

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

BCB CHEYENNE LLC, a Wyoming limited liability company doing business as Bison Blockchain,

Case No. 23-CV-079-ABJ

Plaintiff,

Mammoth, Wyoming

vs.

August 22, 2024
11:18 a.m.

MINEONE WYOMING DATA CENTER LLC, a Delaware limited liability company; MINEONE PARTNERS LLC, a Delaware limited liability company; TERRA CRYPTO INC., a Delaware corporation; BIT ORIGIN LTD, a Cayman Island company; SONICHASH LLC, a Delaware limited liability company; BITMAIN TECHNOLOGIES HOLDING COMPANY, a Cayman Island Company; BITMAIN TECHNOLOGIES GEORGIA LIMITES, a Georgia corporation,

Defendants.

TRANSCRIPT OF DISCOVERY CONFERENCE PROCEEDINGS
VIA ZOOM VIDEOCONFERENCE

BEFORE THE HONORABLE STEPHANIE A. HAMBRICK
UNITED STATES MAGISTRATE JUDGE

APPEARANCES (via Zoom):

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For the Defendants
MineOne and Terra
Crypto:

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For the Defendants
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and SonicHash:

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For the Defendants
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*Proceedings reported with realtime stenography;
transcript produced with computer-aided transcription.*

1 (Proceedings commenced at 11:18 a.m., August 22, 2024.)

2 THE COURT: All right. Good morning, everyone. I
3 apologize for the late start. This is what I mean by my
4 criminal docket being extremely busy. So we went well beyond
5 what we normally do for our 9:00 hearings. But we're here for
6 sort of part two for our informal discovery conference in
7 BCB versus MineOne.

8 I think that when we left off, we had somewhat
9 started talking about depositions, which I really don't want
10 to micromanage, but I thought we could touch on some topics
11 that might be problematic. I know I asked the parties to
12 exchange availability dates as well as lists of who they want
13 to depose and who they think should be responsible for
14 deposing -- for producing that witness. So I hope that's been
15 done.

16 I think we touched on the topics that Ms. Colbath had
17 raised in her letters by either ruling on them or setting them
18 for further briefing.

19 Mr. Murphy, I've had more time to look over your
20 letter of August 16th, which I think, again, the majority of
21 that -- and you had acknowledged one of the most important
22 issues I think is what we've now set for briefing primarily,
23 which, I believe, is appropriate given the lengthy arguments
24 both sides have to make on that topic. And it does seem to be
25 something everybody agrees is important to the case.

1 So we'll brief those issues and make sure that we
2 then consider everything everyone thinks is important.

3 So I do think that removes a few topics from your
4 letter, Mr. Murphy. So it's my intention this morning to
5 discuss, somewhat, depositions. I don't feel like the Court
6 should have to ride herd over all of those. I do expect you
7 to meet and confer and agree on as much of that as you can.

8 I don't want to micromanage. I don't want to sit
9 here and go through everybody's witness and everybody's
10 schedule and have the Court have to mess with every witness
11 that wants to be deposed. I do expect you to meet and confer
12 and agree on as much of that as you can in a serious fashion.

13 Again, you guys are experienced litigators, and I
14 expect you to be professional with each other and to do these
15 things. This is not personal. Everybody can vigorously
16 represent their clients. But this is, frankly, normal
17 litigation. There's some quirky aspects to it: people who
18 live in China, things like that. And I get it. I know China
19 has some weird things about Zoom and people. I know there are
20 those quirky things.

21 So there are some unusual issues; but, for the most
22 part, you ought to be able to schedule some depositions
23 without the Court having to get involved in the minutia.

24 MR. GOTTLIEB: Your Honor, can I be heard on one
25 issue?

1 THE COURT: Sure.

2 MR. GOTTLIEB: I don't want to interrupt the Court,
3 so I'm sensitive to that. But you raised the issue, and I've
4 been participating in the various meets and confers.

5 And I will say this: Counsel have been very
6 courteous with one another. They've been very polite.
7 They've engaged in very professional, responsible ways. I've
8 seen the correspondence between Mr. Murphy and Ms. Colbath,
9 and both have been very polite in their communications.

10 It doesn't alter the fact, though, that -- that we
11 have a limited -- and I'm not here to voice my concern about
12 something that is not before you, which is Judge Johnson's
13 purview of extending the deadline. But I will tell you this:
14 Because right now we are operating under a deadline that has
15 September 17th, and there are -- there are seemingly immovable
16 objects such as Mr. Murphy has some family things that we've
17 all been very respectful of, and I continue to be respectful
18 of those things. He's been respectful of our issues and
19 Ms. Colbath's personal schedules.

20 Everybody has these problems; right? And because of
21 that, through no fault of anybody -- I'm not casting any
22 aspersions on anybody here -- we just -- we have like five
23 dates out of all the dates that are left that, really,
24 attorneys are available. And it's through no fault and not
25 through lack of trying.

1 And we are getting to a point where no depositions
2 are being scheduled. I'm sure we can get four or five
3 depositions in before the September 17th deadline, but I don't
4 know how that's going to happen without the Court's
5 intervention on these things. You know, there are these
6 immovable dates.

7 THE COURT: And, Mr. Gottlieb, when you say "Court
8 intervention," I mean, are you just talking about Judge
9 Johnson possibly moving a deadline? I don't know what else
10 the Court can do.

11 MR. GOTTLIEB: We're going to get to that place at
12 some point. I don't know how else we're going to avoid that,
13 but I'm not trying to do that here. What I'm trying to do
14 here is just raise the issue of we've got to at least get --
15 we're going to probably end up needing the Court's involvement
16 on at least setting aside a certain number of dates so we can
17 get these done.

18 I don't know what to do when Mr. Murphy's going to be
19 away and Ms. Colbath's going to be away. And they're all
20 legitimate. They're all legitimate family things. We all
21 have holidays. We all have summer plans. We have family
22 deaths and sicknesses and tragedies in our lives; right? And
23 they're sad, but they're real, and they're impacting this
24 case.

25 THE COURT: Thank you.

1 MR. GOTTLIEB: I don't know what to do with that.

2 THE COURT: Thank you, Mr. Gottlieb. I appreciate
3 that, and I appreciate your remarks that everybody's trying to
4 work together. Sometimes we get in here and I feel like
5 everybody is just at each other's throats. So I'm glad to
6 hear that's not the case, and I would expect nothing less. I
7 know you're all professionals.

8 Other than the deadlines, I mean, I don't know what
9 the Court can do in terms of depositions at this point. And I
10 don't know -- Mr. Gottlieb, I'll let you jump in. You've sort
11 of taken on this topic. I mean, is there anything that I can
12 address today that doesn't have to do with deadlines that can
13 further that process?

14 MR. GOTTLIEB: Well, one of the problems that we
15 have -- as I see it, it's a longer-term problem -- is that we
16 have all these motions for discovery; right? And so it's sort
17 of like putting the cart before the horse because we have all
18 these documents that, at some point in time, are going to come
19 in. And yet depositions will have been done by then. It's
20 sort of like putting everything backwards. Normally, you want
21 to get rid of all of these issues.

22 These are legitimate battles that everyone's had.
23 Again, I'm not claiming that anyone's tried to stretch this
24 out or draw it out. The motions that have been made are
25 legitimate motions. Everyone has legitimate concerns. And

1 they're just going to take their time, you know.

2 And I understand Mr. Murphy's concern that he didn't
3 want to push the deposition deadlines back because there are
4 dispositive motion deadlines, also, which are factored in.
5 And he's right about that.

6 And so, you know, without pushing those back, as
7 well, at some point I just fear, Your Honor, that we're going
8 to be forced to come to Judge Johnson and say, Let's not move
9 the trial back. We can still keep a January 27th trial date,
10 but we may need to push everything else back a month just to
11 get it all in and take the pressure off of everybody else.
12 Because we're going to end up back here again before you with
13 all of these problems, and I don't know how to resolve them.

14 THE COURT: Yeah. And I think, Mr. Gottlieb, Judge
15 Johnson is a thoughtful jurist and not known for his --
16 necessarily his speed for issuing rulings. And so I think
17 when you're talking about needing to move dispositive motions,
18 which, you know, I don't know how you all are going to avoid
19 that. I don't know that Judge Johnson's going to be willing
20 to keep that trial date, because I do think he -- he is not
21 known for speedy rulings.

22 So just to put that out there. You might not be as
23 familiar with Judge Johnson, but you may find he will want to
24 move that trial date if you want to move dispositive motions.
25 But that's all in Judge Johnson's hands, and he likes to

1 control those dates and deadlines himself.

2 So, Mr. Murphy, I'm going to turn to you because you
3 were talking about the depositions in your letter. Do you
4 think there's anything that I can help with or address today
5 in terms of those depositions?

6 MR. MURPHY: I do, Judge Hambrick, and I appreciate
7 you letting me speak here. Could I just bring a few things
8 off of your table first for today?

9 THE COURT: You may.

10 MR. MURPHY: Here's a good one. A big part of my
11 letter to Your Honor on August 16th was my, really, discovery
12 disputes with Bitmain Georgia. And I'm happy to tell you and
13 report to you that after our last discovery conference, I've
14 had some really good and meaningful conferrals with Will Pao
15 and Khale Lenhart with Bitmain Georgia.

16 We are further engaged in the conferral process.
17 We've made really good progress the last two days since we've
18 visited with you. We've made enough progress that I can
19 report to you that both -- both of those sides, Bitmain and
20 BCB, agree that we should defer that and take all of that off
21 of the Court's plate today. We want to and are scheduled to
22 keep talking, keep conferring, keep trying to reach a full and
23 comprehensive resolution of all of our Bitmain/BCB discovery
24 requests.

25 We've agreed that if we can't meet that final, you

1 know, global resolution of our discovery requests, we each
2 reserve the right to come back to Your Honor for your help
3 with it.

4 But we did reach -- one of the agreements is that I
5 will not depose the two people from Bitmain Georgia that I
6 most want to depose on either August 27 or 28. Will and I and
7 Khale, we've deferred that. We've taken it off the table.
8 Part of that is in deference to the shortness of the time.

9 Another part is that Paula Colbath is on vacation all
10 of next week, and Paula has shared with all of us very clearly
11 that she wants to be involved with every deposition in the
12 case and we're not to schedule anything without her. So we're
13 taking that deposition off.

14 So that's the good news, I think, today. Well, you
15 know, let's have some.

16 THE COURT: The Court appreciates it. The Court
17 appreciates it.

18 MR. MURPHY: I thought you would.

19 THE COURT: You all seem to be getting along, I feel
20 like, better. And maybe not. But I appreciate everybody's --
21 I appreciate it.

22 MR. MURPHY: We're trying. We are trying. And I
23 echo Marc's comments earlier.

24 The other thing -- and I want to thank you for
25 kicking out your two orders this week, and I'm mindful of

1 that. I will file by noon tomorrow our supplemental briefing
2 that the Court allowed and ordered, but I need to come hat in
3 hand with you and ask for a 29-hour extension on something.

4 This is on BCB's production deadline of noon
5 tomorrow. BCB is having difficulty with our new Relativity
6 vendor. We've also found some large video and audio files
7 that we want to load in and produce. But all of that is
8 taking much more time, and it's just been a lot more difficult
9 the last two days than I ever imagined it would.

10 And so I'd like to ask you -- and, obviously, the
11 other side, MineOne, would get a mutual extension, too. I'm
12 not just saying me; I'm saying both parties. We'd like to ask
13 you if you would please give us an extension until Saturday
14 evening at 5:00 o'clock to do that production to the other
15 parties and also to produce the privilege log that the Court
16 ordered we produce by tomorrow at noon. They really go hand
17 in hand.

18 And I'm just going to be, with BCB, jammed up from
19 now until then trying to kick all that out. I don't believe
20 it's any prejudice to anyone, and I'd certainly give Paula --
21 you know, stipulate to the same extension.

22 Then I can talk about the depositions after we
23 resolve this little thing.

24 THE COURT: All right. Ms. Colbath?

25 MS. COLBATH: I would just ask that we have until

1 10:00 a.m. Mountain Time on Monday. I don't want to agree
2 that my team is going to work this weekend, scrambling. And I
3 think -- I have no idea what their plans are. And I don't
4 think, from a prejudice standpoint -- if it's 10:00 o'clock,
5 on Monday, it builds in at least some flexibility. I don't
6 think anything major is going to happen between Saturday night
7 and Monday that would prejudice BCB in this.

8 So I would just ask, rather than midnight Saturday,
9 we just make it 10:00 a.m. Mountain Time on Monday morning.

10 MR. MURPHY: I appreciate that, and I was -- I just
11 didn't want to overindulge the Court with your deadline. I
12 didn't want to ask for too much. But since Paula's doing it,
13 I would say God bless you.

14 THE COURT: Okay. All right. So we'll extend that
15 deadline, and I honestly don't think we specifically talked
16 about a deadline for those. And so I put that in, so
17 that's -- I'm perfectly fine with extending that.

18 MR. MURPHY: You're right. We didn't talk about it.
19 And then when I read it, I went, Oh, and then I'll leave the
20 next word blank.

21 MS. COLBATH: But, Pat, just so we're on the same
22 page, our production is, like, the loan-related documents. Is
23 that what you're referring to, or something different?

24 MR. MURPHY: No. I'm talking about the other
25 documents that -- the supplemental production that we're

1 supposed to make and, through Relativity, the text messages,
2 the WhatsApp. That's what I'm referring to in the Court's
3 order.

4 MS. COLBATH: Okay. I don't think we had -- we've
5 already complied with that. What I'm talking about is we have
6 a small document production to make tomorrow, which we would
7 appreciate having until Monday at 10:00 a.m.

8 MR. MURPHY: I know what you're talking about -- if
9 I -- may it please the Court. Now I know what Ms. Colbath is
10 talking about. She's talking about the ordered production
11 that was made by Judge Carman before he left.

12 MS. COLBATH: Correct. Correct.

13 MR. MURPHY: And, Paula, I would stipulate to that.

14 MS. COLBATH: I appreciate that.

15 THE COURT: So there was an order -- I just want to
16 make my own notes -- by Judge Carman for some production by
17 tomorrow, and that's being extended until Monday morning --

18 MS. COLBATH: Correct.

19 THE COURT: -- MineOne production.

20 Okay. Great. All right. So now, Mr. Murphy, why
21 don't we talk about depositions and what can the -- what can
22 the Court help with today.

23 MR. MURPHY: Okay. The summary level is I would like
24 the Court to order four -- the four depositions that BCB wants
25 to take in this case of the MineOne and Bit Origin people on

1 Thursday, September 5th, and Wednesday, September 11th.
2 That's going to be the ask.

3 As Mr. Gottlieb shared with you, we have had
4 extensive back-and-forth emails. If I -- just to summarize
5 it, I would say that Ms. Colbath is not available until
6 September the 5th with her vacation schedule. I earlier
7 shared with everybody the problem with my little grandson and
8 not being able to do this on the 15th and 16th because I'm
9 going to be gathered with family for that.

10 But -- and I shared with them that I had my own
11 vacation time on September the 9th through the 13th. I've
12 changed that to accommodate the counsel. I've pushed that
13 back until the week of September 16th through the 21st so that
14 we can honor the September 17th discovery cut-off date.

15 The MineOne Defendants last night sent me a list of
16 19 or 20 witnesses they want to depose, 19 or 20. They
17 haven't taken any of those in the last 11 months. It was
18 staggering to me. I have narrowed BCB's list to four people:
19 the two on the 5th, two on the 11th I'll get to in a second.

20 And it -- we can get this done, but we can't be doing
21 these 20 depositions -- and they didn't provide any dates that
22 they wanted to do them. But I'm telling everyone on this call
23 that I can get my primary client representatives -- Michael
24 Murphy, Sean Murphy, Neil Phippen, Emory Patterson --
25 available to be deposed the week of September 9 through 13.

1 Emory Patterson is the only one that has to be done by a Zoom
2 deposition. He's unavailable to be in Cheyenne, but my two
3 sons and Neil Phippen can be available then.

4 And so I suppose we need to further meet and confer
5 on it. But I fear, like Mr. Gottlieb fears, that we are going
6 to be ending up with the Court.

7 So here's my ask of the Court, and this is really the
8 last thing of the day that I think is really scheduled is I
9 want the Court to order that Jaiming Li and Erick Rengifo give
10 their Zoom depositions on Thursday, September 5th, and that
11 Chong Wang way and Huaili Zhang give their Zoom depositions on
12 Wednesday, September 11th.

13 These are the four people who were either highly
14 involved in every aspect of this project or who have intimate
15 and highly relevant knowledge of the projects or were the
16 people who gave their approvals of these projects. And I'm
17 asking that they be made available on those dates before the
18 discovery cut-off deadline.

19 I am -- and what's so simple about my request is how
20 little time I'm asking for depositions. I'm asking for two
21 days. I'm asking that the Court allow me to depose two of the
22 defendants on one day and two on the other day. And all
23 counsel are available on those days, the 5th and the --

24 MR. GOTTLIEB: That's not -- that's not true.

25 MR. MURPHY: I think, Marc, you indicated that you

1 may have a trial on September -- the week of September the
2 9th.

3 MR. GOTTLIEB: Correct.

4 MR. MURPHY: But you would be done -- you thought
5 you'd be done on September the 11th, I believe; is that right?

6 MR. GOTTLIEB: I believe it's going to be a three-day
7 hearing. It could go four. But it's definitely going to be
8 9, 10, 11. And whether it ends on the 11th, I don't know, but
9 I'm actually engaged those three days.

10 MR. MURPHY: Well, I'm very happy to move that to the
11 12th or the 11th for the other two depositions to accommodate
12 that.

13 MR. GOTTLIEB: Well, it may not accommodate it.
14 That's the problem. I have no control over that. What would
15 happen would be -- I would hate to fill you up on the 11th
16 and, say, the trial has gone over a couple days. Because the
17 trial is actually scheduled through the 13th; right? We gave
18 ourselves the extra couple of days because you just do those
19 things.

20 But I have no reason to believe that it's going to be
21 over on the 11th. It could very well be over on the 11th, or
22 it could be over on the 12th. But I don't want to disappoint
23 you, Pat, by telling you I can do something when I don't know
24 if I can.

25 MR. MURPHY: I understand.

1 MS. COLBATH: Well, might I propose something that
2 these are the things that meet and confers are about without
3 taking all of this with the Judge.

4 I don't know whether Marc is going to require that he
5 be present for Dr. Rengifo's deposition, but Dr. Rengifo could
6 go on the 11th. I will address Jaiming separately, and the --
7 Jaiming Li does not possess a passport right now. It's being
8 held at the U.S. Embassy. He is resident on mainland China.
9 He cannot testify by Zoom or any other means. It's a criminal
10 act.

11 If we can get his passport back -- and I had
12 suggested that we pick the latest date in the schedule, the
13 16th or the 17th. And if he got his passport back, whenever
14 he gets it, it will likely be returned when the CFIUS
15 certification is delivered that the North Range has been
16 cleared of all property, improvements, infrastructure. We
17 anticipate that the MineOne Defendants must deliver a
18 certification to CFIUS.

19 That is underway. Everything is being removed. An
20 extension of one week was recently granted because it's taking
21 longer than expected.

22 But we expect when that process is done and the
23 certification has been accepted, his passport will be returned
24 to him, and he can then go to Hong Kong or Singapore or these
25 other venues where people from China go to be deposed.

1 That is something that I've raised with Mr. Murray,
2 so I had suggested Jaiming at the end.

3 Any order to have him appear and testify today on
4 September 5th, by definition, he cannot comply with. This is
5 not something that I've raised this week. I have raised this
6 months ago with Mr. Murray and Mr. Murphy and encouraged him
7 to at least begin the process under the Hague Convention on
8 evidence, because that might have given him another avenue. I
9 don't know whether he's done anything. I certainly haven't
10 received any papers. I am agreeable when Mr. -- Dr. Li can be
11 deposed to present him.

12 So Dr. Rengifo has been on vacation. I offered his
13 deposition back in July. BCB's counsel declined to take
14 Dr. Rengifo on the dates that I offered. He is returning at
15 the end of August. This is all stuff that was reported to
16 counsel months ago, our vacation schedules. This is no
17 surprise to anyone.

18 When he returns, I can confirm whether he's available
19 on the 11th, and we will present him then.

20 I plan to take the three principals for BCB
21 witnesses, if possible, in person. So that -- I wanted to
22 talk offline. You know, I'm hearing different dates, but
23 there's travel involved. And so on those dates, you know,
24 I've always been willing. I have sent six letters asking for
25 an all-hands meeting amongst counsel to hammer out a logical

1 deposition schedule. My request started way back at the
2 beginning of July. So I've always been willing to have those
3 meet and confers.

4 The last witness that I'm going to address is someone
5 by the name of Huaili. I do not control Huaili. Never spoke
6 to Huaili. He's not an employee of my clients. Huaili is
7 with a separate company called JWJ Technology LLC and readily
8 available, I would assume, by subpoena. I believe they are
9 either Texas or Georgia. I don't have my paperwork with me,
10 but I did a Secretary of State-type search. And so I cannot
11 produce him. He's not connected with the MineOne Defendants.

12 And so an order requiring -- and I don't know
13 whether -- I'm assuming that was directed at me and
14 Mr. Gottlieb. I cannot deliver that. I have no control.
15 Again, I've never spoken to this individual. He is not a
16 principal or an employee of my client and never was.

17 THE COURT: And I believe, Ms. Colbath, you said it
18 was for Mr. Chong Wang?

19 MS. COLBATH: I believe that's directed at
20 Mr. Gottlieb, not me. Although -- excuse me -- I'm not sure.
21 I would ask -- Mr. Murphy, are you expecting me to produce
22 Chong Wang? Again, that's someone who is not connected with
23 the MineOne Defendants.

24 MR. MURPHY: May it please the Court.

25 THE COURT: Go ahead, Mr. Murphy.

1 MR. MURPHY: There's a whole lot of issues there to
2 unpack, so let's address the most recent ones.

3 There are two witnesses that I believe Ms. Colbath
4 and/or Mr. Gottlieb should be producing. They are Chong Wang
5 and Huaili Zhang. Now, Ms. Colbath says, No, I don't control
6 those. I shouldn't.

7 But here are the reasons why they should produce
8 those: On Chong Wang, Chong Wang is one of MineOne's three
9 cofounders along with Jaiming Li and Erick Rengifo.

10 The SF Agreement, a key agreement in this case,
11 identifies Chong Wang as the, quote, "ultimate beneficial
12 owner," unquote, of the North Range property. Chong Wang was
13 the CEO and executive chairman of the Defendant Bit Origin
14 until he resigned in April of 2024. And Chong Wang was the
15 person who sent Huaili Zhang to North Range in December of
16 2022.

17 I have in my notebook here the messages between
18 Jaiming Li and Eric Rengifo where Jaiming, on December 29th of
19 2022, is telling Dr. Rengifo that Huaili represents MineOne.
20 In other words, two of the cofounders are saying that Huaili
21 represents MineOne.

22 Another one says right below it, on December 22nd, it
23 says, "I told Huaili not to push BCB so hard and we should
24 work together as a team. He is truly angry with BCB, but he
25 said he will do his job and the benefit of MineOne and

1 Mr. Wang."

2 Chong Wang is known as the big boss in China, and he
3 is critical. And I don't think it's accurate for Ms. Colbath
4 to say that she cannot produce one of the three cofounders of
5 her defendant client.

6 Huaili Zhang, he -- and to be candid, Ms. -- ever
7 since February 7th when Ms. Colbath told me for the first time
8 that Huaili Zhang is not an employee of MineOne, she and I
9 have gone back and forth arguing this issue. She says, I
10 can't produce him. I don't know him. I haven't talked to
11 him.

12 However, MineOne, her client, in writing, says Huaili
13 Zhang is a MineOne employee. At MineOne's direction, Huaili
14 Zhang replaced my client, BCB, as the host and operator of the
15 North Range site. Bit Origin, Mr. Gottlieb's client, admits
16 that Huaili Zhang is one of Bit Origin's largest shareholders.

17 Eric Rengifo wrote to Jaiming Li on Sept- -- on
18 December 29th of 2022, saying Huaili represents MineOne. And
19 Huaili Zhang is the one who literally took over for BCB as the
20 host and operator of the site.

21 These are the reasons why the Court should find that
22 MineOne and/or Bit Origin have the obligation to produce those
23 two men for their depositions. It's no answer for me to say
24 that I've got to go through the Hague Convention and try to
25 find -- and find them. That would never happen. If you've

1 ever done a Hague Convention kind of thing, Your Honor, it
2 takes months and months. It's never going to happen.

3 Ms. Colbath offers that to me knowing that I could
4 never get that done before the trial. So that -- that's the
5 most recent thing.

6 The other thing is that this -- the idea that last
7 night MineOne puts out its list to me of 20 people that it
8 wants to depose and does not suggest even a date for any of
9 those people is over the top.

10 And I don't think Ms. Colbath and I and Mr. Gottlieb
11 will ever agree on the notion that they can take all of those
12 19 or 20 depositions before the discovery cut-off. We will
13 just -- we just will respectfully disagree.

14 And I don't know if that's an issue for Your Honor to
15 later decide, but it's big. It's out there. It's on the
16 table. It's the elephant in the living room, and it's not
17 going to be resolved through the agreement of counsel, I'm
18 afraid.

19 THE COURT: All right. Thank you, Mr. Murphy.

20 Mr. Gottlieb, I'm going to let you --

21 MS. COLBATH: May I be heard?

22 THE COURT: Hang on. Hang on, Ms. Colbath.

23 I'm going to let Mr. Gottlieb address the Huaili and
24 Wang individuals and whether or not Bit Origin can produce
25 those people.

1 MR. GOTTLIEB: I'm under the impression that we
2 cannot. That's what I've been told, that we have no
3 connection with these people anymore.

4 The fact that -- I know Mr. Wang for certain we have
5 no control over. We've tried. We couldn't get any access to
6 his, you know, phone records or to get his communications.
7 He -- he left the company, I think, a while back and -- in
8 April or something like that before -- right before I got
9 involved in the litigation.

10 With respect to Mr. Huaili being a shareholder, that
11 may be true. Being a shareholder doesn't mean we have control
12 over him.

13 It's in our best interest to produce these people. I
14 think that, you know, we want to produce them if we have the
15 ability to do it. Otherwise, it could prejudice our cases.
16 So I don't know why we wouldn't want to produce them if we
17 can.

18 I don't think we're trying to -- we're not trying to
19 make things more difficult for Mr. Murphy. I know he thinks
20 that we are. We're really not.

21 By the way, to come back to what Ms. Colbath said, I
22 am willing to allow depositions to go forward without me being
23 there on -- the depositions that she wants to conduct on the
24 11th -- or the 9th, 10th, the 11th of September. So I don't
25 have to hold up those dates. If Ms. Colbath wants to use

1 those to depose plaintiff's witnesses, I have no problem with
2 that, just to come back to that.

3 But I don't know what to do with Mr. Huaili or
4 Mr. Wang. I really don't, Pat. I mean, with all due respect,
5 it's not as easy as you think it is because you claim it is.

6 THE COURT: Okay. Ms. Colbath, I'll let you be
7 heard, as well.

8 MS. COLBATH: So on Huaili, I have furnished BCB's
9 counsel with a copy of the contract between MineOne and JWJ.
10 BCB's counsel has copies of the invoices that were paid by
11 various vendors. JWJ is just like all of the other vendors
12 that were on the site. Shermco, CEGEN, Black Hills, these
13 were all vendors that participated in the construction.
14 Because my client contracted and had dealings with these
15 individuals doesn't mean I can produce witnesses from all of
16 them. And he has the contract with JWJ.

17 Again, I had proposed 9/11 for Dr. Rengifo. I will
18 talk offline with all counsel about appropriate dates for BCB
19 witnesses because I believe other counsel will want to attend
20 those. And, again, I would like to try to schedule those for
21 in-person.

22 My list of 20 witnesses was provided back in July. I
23 sent a letter to all counsel listing the witnesses. This
24 is -- again, I started this process a long time ago and tried
25 to engage all counsel. It didn't happen, and then there was,

1 you know, a couple of weeks where we did devote time to
2 preparing for a mediation, and then some of us spent a good
3 portion of a week out in Cheyenne trying to resolve things.

4 But my list did not arrive last night. That was a
5 list with maybe some minor changes that was provided back in
6 the beginning of July, imploring all counsel to get together
7 on a Zoom to hammer out something logical.

8 I have local counsel. I have colleagues. We
9 anticipate -- not all -- not all these depositions -- and I
10 forget if our communication last night estimated, but some of
11 the witnesses are an hour or so. Some of them could be
12 obviated if Mr. -- BCB's counsel will authenticate all
13 documents provided by third parties.

14 That, you know, is one of the issues. I don't want
15 to show up in January and suddenly have to issue a number of
16 trial subpoenas to folks just to come in and authenticate a
17 document. If there could be some initial agreements on kind
18 of global issues like that, depositions would go much quicker.

19 But, again, a lot of them are -- and there was a
20 version of what we sent last night. I just -- it got sent so
21 late I don't recall. We had said something like don't
22 anticipate it to exceed two hours.

23 So while there are numerous people, if you add up,
24 there's plenty of time between September 5th and the 17th to
25 complete everything.

1 THE COURT: And, Ms. Colbath, I'm assuming your list
2 is your, like, ultimate list. So some of that could be
3 affected by the ruling on some of the motions that are going
4 to be heard?

5 MS. COLBATH: Correct.

6 THE COURT: Okay.

7 MS. COLBATH: Correct. And there's -- one
8 individual, for instance, James Quid, who is the managing
9 agent of, you know, CMV Global and then Bayview. So that's
10 one deposition that's -- it looks like it's three, but it's
11 really one, and it's not going to exceed two hours.

12 So, again, that's a prime example of something that
13 is not a seven-hour, full day, you know, all hands on deck. I
14 think some counsel probably won't even attend that deposition.

15 THE COURT: And so I know Mr. Murphy had asked about
16 doing Dr. Rengifo on the 5th. Do you know, is that doable for
17 you and Dr. Rengifo?

18 MS. COLBATH: So he is away. And he has spent an
19 enormous amount of time on this case, so I really have tried
20 not to contact him while he's away. Again, I had offered
21 dates for Mr. Rengifo's deposition that went by the wayside.
22 Certainly, my preference is -- I come back on the 4th. I much
23 prefer to have a key witness, my client, on the 11th, and it
24 seems like everyone's available on the 11th.

25 That, I know, would work much better for him and

1 certainly with my schedule. I'm coming back from being off
2 grid.

3 THE COURT: And then Dr. Li, we just don't -- you're
4 not opposed to producing him --

5 MS. COLBATH: Absolutely not.

6 THE COURT: -- we just don't know when?

7 All right. So here's what I'm going to do today just
8 in terms of these. It sounds like there's still room for you
9 all to meet and hopefully confer on a lot of these things. In
10 terms of Mr. Wang and Huaili, I am going to order that MineOne
11 and Bit Origin provide to the plaintiff their last-known
12 contact information for each of these individuals and, for
13 Mr. Wang, the -- I'm trying to figure out how to word this.
14 The general circumstances -- if he's no longer affiliated with
15 MineOne or Bit Origin, the general circumstances of when the
16 relationship ended and under what circumstances.

17 And if there's any kind of continuing relationship,
18 whether it be officially employed or board member or things
19 like that, provide that to plaintiff. And that way --
20 Mr. Murphy, I won't preclude you from coming to the Court
21 again with an argument of why the defendants should produce
22 those individuals, but perhaps if you have some more
23 information, that will be useful to you in figuring that out.

24 Can we -- what's today? I don't know. Mr. Gottlieb,
25 how much time do you think you would need to provide that

1 information?

2 MR. GOTTLIEB: I think we can probably get that
3 information relatively quickly. I have to just speak with my
4 client. Probably by Monday.

5 THE COURT: And, Ms. Colbath, can you provide that by
6 Monday on behalf of your client?

7 MS. COLBATH: Yes.

8 THE COURT: All right. Provide that to Mr. Murphy.
9 And then, Mr. Murphy, like I said, you're not precluded from
10 bringing that issue back to the Court.

11 I know, Mr. Murphy, you want me to order those
12 depositions on those days. I'm not going to. But it sounds
13 like there's still room for you all to meet and confer and try
14 to agree on some dates for them, as well.

15 So I don't know that I helped out a lot with depos
16 today, but I feel like you guys are talking, and there's still
17 room to agree. I don't know how you're going to avoid asking
18 to change some deadlines, but I'll leave that to y'all. I
19 don't have to decide that.

20 MR. GOTTLIEB: Your Honor, while we're on that topic,
21 do you have any -- any advice for us on whether -- on when we
22 should do this? You know, because it seems like it's going to
23 happen at some point in time.

24 THE COURT: I would -- sooner the better, I would
25 think. And particularly if you want to try to not move the

1 trial date, I would say bringing that up with Judge Johnson as
2 soon as possible. Maybe he'll be more able to move some
3 things around for you all if you do it sooner rather than
4 later.

5 MR. GOTTLIEB: Okay.

6 MR. MURPHY: Just so we all know, the plaintiff is
7 totally opposed to that. So it should probably be in the form
8 of some motion, I think, Marc.

9 THE COURT: Yes.

10 MR. MURPHY: I think you understood that.

11 MR. GOTTLIEB: Oh, I would certainly represent to the
12 Court in anything I did that you were opposed to it, Pat. I
13 wouldn't put you in a weird position. I don't know why you're
14 so opposed to it, but I'll leave that to you.

15 MR. MURPHY: I can tell you all the reasons, but I
16 don't know that the Judge wants to hear them today.

17 THE COURT: I don't. It's not my problem, which I'm
18 glad about. So we'll let you take up all that with Judge
19 Johnson, and I know he'll carefully consider everybody's
20 positions on that.

21 I don't know -- Pat, you had a few more things in
22 your letter. I don't know if you still feel like you want to
23 address some of these. I'm not sure if we're still having an
24 issue with the spoliation-of-evidence issue.

25 MR. MURPHY: I'm not having any issue with it. Let's

1 ask Ms. Colbath if she has any problem with it.

2 MS. COLBATH: Yeah. I would say that the website
3 that was reconstituted does not contain everything that was on
4 there before. There are a lot of very, very provocative
5 entries on the website. I'll just give one example, and that
6 is, at the outset when BCB was formed, it put biographies of
7 some of its members on the website touting extensively their
8 blockchain and Bitcoin and cryptocurrency experience, which,
9 obviously, we believe went way, way overboard. That has now
10 been deleted from the website.

11 So I -- I would ask -- I mean, look, we're analyzing,
12 we're trying to avoid making motions, especially this far away
13 from trial. I'm really not someone who every week files a new
14 motion. I think you can see from the docket.

15 However, we would -- I had sent a very detailed
16 letter to BCB's counsel about what I needed in order to
17 satisfy -- I mean, I can see that it's not the same, that they
18 have manipulated and not put everything back up.

19 And so I'm happy to have, offline, when I discuss
20 depositions with BCB's counsel, but I would like an order that
21 they put their complete website back up or explain why they
22 are not doing so and when they -- when they plan to.

23 That was a treasure trove, and I could -- I could
24 have -- this is a hotly contested case. I think you can see,
25 every other week, there's some type of sanctions motion or

1 something against me. For me to have copied the website would
2 have been a copyright infringement, and so I did not do that.
3 But I -- you know, we checked, and -- and I had printed a few
4 things.

5 The website was an obligation of BCB to maintain,
6 especially since, if you ever looked at it, it's just -- it's
7 basically an anti-MineOne Defendant's website. And so there
8 should be a direction that they explain why the website has
9 been manipulated and altered. They should furnish us with a
10 copy of the website as it stood before it was taken down.

11 THE COURT: All right. I'm going to -- I think
12 that's appropriate deposition topics for the BCB witnesses.
13 If you wish to go into that with them, Ms. Colbath, I think
14 that's appropriate. And along with that, if you -- if there
15 are documents they can produce relating to the former website,
16 they should produce those, and that's a legitimate topic.

17 In terms of --

18 MS. COLBATH: I would like to have --

19 THE COURT: I was going to say in terms of whether or
20 not there's been intentional spoliation, I think if you gain
21 more information on the topic, that's not precluded at this
22 point.

23 MS. COLBATH: Okay. I mean, I prefer to have
24 documents before I take depositions, and that should have
25 never been removed to begin with. And so --

1 THE COURT: Have you done --

2 MS. COLBATH: -- I would ask --

3 THE COURT: -- a request for production of documents
4 related to that?

5 MS. COLBATH: Correct.

6 THE COURT: You have done a request for that?

7 MS. COLBATH: They -- I have -- I have -- yes. We
8 asked for documents relating to all the negative, defamatory,
9 disparaging statements. The website was filled with all of
10 that material. And it wasn't incumbent -- again, you know,
11 that was out there, and it doesn't -- it doesn't get the
12 benefit of the litigation privilege. When BCB puts false
13 statements into its pleadings, I'm kind of, like, handcuffed.

14 But the longer -- and we were monitoring. The longer
15 that that website was out there with all of the defamatory and
16 disparaging comments, the increased damage to my client.

17 Now that website has been kind of cherry-picked. And
18 Mr. Murphy represented that, no, it was identical. I've given
19 a prime example of how it's not. And I think it's incumbent
20 upon him to either give us a copy of the website as it stood
21 before they removed it or to recreate it.

22 MR. MURPHY: This is unbelievable. It went down for
23 three days because it -- the credit card wasn't paid, and it
24 was put back up. All of these things that Ms. Colbath are
25 saying are just unsubstantiated, and yet she touts them as

1 being the truth.

2 There's -- there should be no order. I explained
3 everything in my letter to Your Honor on August the 16th.
4 It's that innocent of a thing, and she's trying to make it
5 some kind of a federal crime.

6 I'm happy to have it addressed in the depositions,
7 but there should not be -- and there is no request for
8 production of all these things she says she's requested. She
9 just did that in her July 25th conferral letter. That's all
10 it was. It's not in any kind of formal request.

11 So if the Court was even entertaining any -- any
12 order on this, I would definitely want to brief this ahead of
13 time. But if the Court is not thinking of issuing an order,
14 then let her talk about it with Neil Phippen and my son,
15 Michael Murphy, in their depositions.

16 THE COURT: All right. At this point I'm not going
17 to order any production of those documents. But, as I said, I
18 think it's an appropriate topic for a discussion at
19 depositions, and you're not precluded from raising the issue
20 in the future.

21 MR. MURPHY: I think the very last thing I had, Judge
22 Hambrick, was this -- really, I wanted to offer you the last
23 follow-up item on the Chong Wang and Huaili Zhang depositions.
24 I want to offer you that I can send the Court the documentary
25 evidence that they -- that they -- Huaili Zhang was an

1 employee of MineOne Wyoming. I have the evidence, but I don't
2 know -- maybe you've already kind of ruled on that and are not
3 ready to look at that at this point.

4 THE COURT: I think that -- that's correct,
5 Mr. Murphy.

6 MR. MURPHY: I got Your Honor's drift on that.

7 The last thing that I really got for us today is
8 the -- the request in my letter that I wrote to you that
9 BCB -- strike that -- that MineOne Wyoming Data Center be
10 ordered to reproduce the documents it earlier produced in the
11 Relativity format at their cost just like BCB had to go to the
12 expense and cost of hiring a Relativity vendor to then go and
13 put all of its documents into Relativity like Ms. Colbath was
14 adamant that we do.

15 I don't think that MineOne is opposed to doing it,
16 but Mr. Inman wants us to share the cost or at least talk
17 about sharing the cost. I don't feel that's appropriate. I
18 think this is a situation where BCB had to, at its expense,
19 put -- go hire a Relativity vendor and do that for MineOne.
20 And MineOne so easily has the capacity to do it. They should
21 have to do it at their cost and provide BCB with their
22 documents via Relativity.

23 That's the last issue.

24 THE COURT: Ms. Colbath, do you want to address that
25 issue?

1 MS. COLBATH: Yes, Your Honor.

2 Okay. So -- so when MineOne served its initial
3 document request, it set forth in the document request how it
4 wanted the documents produced. Mr. Murphy did not object to
5 that. And what he did was he produced PDFs rather than in the
6 format that we requested, and he never objected.

7 So we pressed him and said, You didn't object. We
8 would like the documents produced in the format that we
9 requested.

10 Okay. Now, back in October of 2023 when my client
11 did its first document production, our initial disclosures to
12 Mr. Murphy, Mr. Murphy wrote me an October 18, 2023, letter,
13 and I just want to read a paragraph from it, the very first
14 substantive paragraph of the letter.

15 It's in a paragraph entitled "Please submit documents
16 in PDF format, not image files."

17 "In your September 15th initial disclosures, you
18 produced a folder of 130 image files which are
19 individual pages of contracts, agreements, and other
20 documents in JPEG and TIFF formats. This is
21 unacceptable. You should have produced your
22 documents as PDF files like the litigation world
23 does.

24 "And, going forward, we request that you submit
25 documents to us in PDF format and submit emails where

1 plaintiff is not a party to the email in EML format.

2 Rule 34(d) of the Federal Rules of Civil Procedure
3 allow a party such as BCB to 'specify the form or
4 forms in which electronically stored information is
5 to be produced,' and we are doing that here."

6 Then he goes on. So Mr. Murphy asked my firm -- we
7 initially did a production in TIFF format. He rejected it,
8 said, Going forward, you are to produce in PDF format
9 explicitly. We have complied with Mr. Murphy's request to
10 produce in PDF format, and we did that for over 40,000 records
11 just as he demanded.

12 Now he wants another format. And we have said we'll
13 undertake it, but we did exactly what you demanded. And it's
14 not incumbent upon us to submit 40,000, 50,000 pages in
15 multiple formats as he decides he wants it in something
16 different. We did exactly what he wanted.

17 And so I have said to him, again, let's meet and
18 confer. Let's figure out if this can be done, what -- the
19 cost associated with it. But my team, we're preparing for
20 depositions, and we complied with his request. And so now
21 that he wants it a totally different way, you know, there's a
22 burden to us. And I'm just asking him to share in that.

23 THE COURT: Ms. Colbath, do you have an estimate of
24 time or dollars that that would require?

25 MS. COLBATH: I don't because -- because my

1 technology person who does this has been on vacation. I don't
2 think we're talking that it would exceed like \$10,000. I
3 think that the gentleman who would be doing this, I think we
4 probably bill out at like -- I don't know -- 3- or \$400.

5 And so, I mean, it's time that he has to spend in
6 order to do this when we've produced the documents in the
7 exact format that the plaintiff requested.

8 THE COURT: Thank you.

9 MS. COLBATH: I'm happy -- I wrote to Mr. Murphy,
10 said, Let's talk about it. I'm happy to get the time involved
11 to undertake this and meet and confer with him on it.

12 THE COURT: All right. Mr. Murphy, is there anything
13 else you wanted to say on that topic?

14 MR. MURPHY: No, other than the fact they're willing
15 to do it. They just want my client to pay for it. And it's
16 not and it should never be anywhere near \$10,000 to do it.
17 They just want BCB to bear that cost. That's all.

18 THE COURT: Had you asked for the PDF format
19 previously?

20 MR. MURPHY: I did previously as Paula correctly
21 wrote to you back in October of last year, Your Honor. And
22 then in this July, I think it was around July 10th, I sent
23 Request for Production No. 40 to the MineOne Defendants,
24 asking that they reproduce all of those documents in the
25 Relativity format, the one that they have demanded that we do.

1 And they say -- this is their response from Alex
2 Inman. He says, "On the basis of the foregoing, defendants
3 will not produce documents responsive to this
4 request. Defendants are willing to confer with
5 plaintiff regarding a cost-sharing agreement in which
6 the documents are reproduced at plaintiff's expense."

7 When they say that they're willing to talk about a
8 cost-sharing agreement, what they're really saying is they
9 won't give it to us until BCB pays for it. That's my problem.

10 I've already paid for it once with my own client
11 having to do it for Ms. Colbath, and I just think they should
12 have to do it for us.

13 MR. GOTTLIEB: But, Patrick, can I just weigh in on
14 it? I mean, is it really fair for you to have asked for it
15 and demanded it to be a certain way, and then 40,000 pages of
16 materials are produced, when it would have been a lot cheaper
17 and a lot more efficient if you would have asked for it in the
18 original way you wanted it instead of then coming back months
19 and months later and asking for another 40,000 pages just to
20 get even with Paula for making you do it in one way when
21 there's really no benefit to it.

22 MR. MURPHY: Marc, I'm not getting even. If I would
23 have appreciated that a year ago, I would have done it.

24 THE COURT: All right. Here's what I'm going to do:
25 I don't believe under the rules that the defendants are

1 required to produce documents in multiple formats, so I'm not
2 going to order they produce it in Relativity. I don't believe
3 the rule requires them to do it in more than one format.

4 And, Mr. Murphy, you got your original format. I get
5 now why you think a different one would be -- may be easier or
6 better, but I'm not going to require them to produce it all
7 again.

8 I will encourage you to discuss with Ms. Colbath if
9 there is some sort of agreement that can be reached to do
10 that, but I'm not -- I'm going to not order them. I don't
11 think that's required under the rules.

12 So I think that covers the topics that were left.

13 Let me see what time it is.

14 Mr. Murphy, is there anything else you think we need
15 to address today?

16 MR. MURPHY: I don't think so, Judge Hambrick.

17 THE COURT: Ms. Colbath?

18 MS. COLBATH: No, Your Honor. Thank you.

19 THE COURT: Mr. Gottlieb?

20 MR. GOTTLIEB: No, Your Honor.

21 THE COURT: Anybody else? I don't want to ignore
22 anybody. Anybody else want to weigh in on any topics?

23 All right. Well, this was not that long and not that
24 painful. I appreciate, I really do, all the efforts
25 everybody's made in this case and your ability to still work

1 together even though you're fighting hard. I know everybody's
2 making an effort, and the Court does appreciate it.

3 I guess that will take care of it. We'll try to -- I
4 don't know if there's a whole lot of substance for orders
5 today, but we'll produce an order on today's discovery
6 conference. And I hope you can all work out some of these
7 deposition issues, and we'll leave the deadline issue to Judge
8 Johnson.

9 So -- all right. Thanks, everybody. Have a good
10 afternoon, and have a good weekend.

11 (Proceedings concluded at 12:17 p.m., August 22, 2024.)

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1 C E R T I F I C A T E

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3 I, MEGAN E. STRAWN, Federal Official Court Reporter
4 for the United States District Court for the District of
5 Wyoming, a Registered Professional Reporter and Certified
6 Realtime Reporter, do hereby certify that I reported by
7 machine shorthand the proceedings contained herein on the
8 aforementioned subject on the date herein set forth, and that
9 the foregoing 40 pages constitute a full, true, and correct
10 transcript.

11 Dated this 26th day of August 2024.

12

13

14

15

/s/ Megan E. Strawn

16

MEGAN E. STRAWN
Registered Professional Reporter
Certified Realtime Reporter

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